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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,846	12/15/1999	Richard N. Terry	02706-0520	4359

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EXAMINER	
SZEKELY, PETER A	
ART UNIT	PAPER NUMBER
1714	11

DATE MAILED: 02/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D.-11

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/461,846	Terry
Examiner	Szekely	Group Art Unit 1714

**—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

Responsive to communication(s) filed on 1/9/02  
 This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

Claim(s) 1-13 and 35-56 is/are pending in the application.  
 Of the above claim(s) 35-40 is/are withdrawn from consideration.  
 Claim(s) 1-5, 8-13, 41 and 42 is/are allowed.  
 Claim(s) 6, 7, 43, 45-47 and 49-53 is/are rejected.  
 Claim(s) 44, 48 and 54-56 is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_.  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)**

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413  
 Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The word "derivative(s)" renders the claims indefinite. The metes and bounds of "derivative(s)" has not been established in the specification. See also Austenal Laboratories, Incorporated v. Nobilium Processing Company of Chicago et al., (DC Nill 1957) 115 USPQ 44, and Petrolite Corporation v. Watson Comr. Pats., (DC DC 1957) 113 USPQ 248 (both enclosed).

4. ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 43, 45-47 and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dresdner, Jr. et al. 5,357,636.

### ***Response to Arguments***

7. Applicant's arguments filed 01/09/02 have been fully considered but they are not persuasive. The gel between the two surface layers coats both layers. Every layer in a multilayer

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article does coat all adjoining layers. The open language does not restrict the number of layers.

The location of the coating is not specified. The rejection is maintained.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Allowable Subject Matter*

9. Claims 44, 48 and 54-56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 1-5, 8-13, 41 and 42 are allowed.

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11. This application contains claims 35-40 drawn to an invention nonelected without traverse in Paper No. 7. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on Tuesday through Friday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718 or (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Peter Szekely

Primary Examiner

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